IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 2501 of 1988

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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Versus

GUJARAT INDUSTRIAL INVESTMENT CROPORATION LTD.

Appearance: 1. Special Civil Application No. 2501 of 1988
MR SI NANAVATI for Petitioner No. 1-2
MR HM BHAGAT for Respondent No. 1-2
MR HS MUNSHAW for Respondent No. 3

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE SHARAD D.DAVE

Date of decision: 24/11/2004

ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

None present for the parties.

This petition was initially admitted by the learned Vacation Judge on 13.5.1988 and the ad-interim relief in terms of para 11(E) was granted in favour of the petitioner and it was ordered to be heard with Special Civil Application No.6630/85, which is already disposed of as per the endorsement made by the Office. Be that as it may.

The ex-parte ad-interim relief granted by the learned Vacation Judge was vacated by Division Bench of this court (Coram : M.B.Shah [as he then was] & K.R.Vyas, J.) on 19.2.1991 by a reasoned order, which is as under :-

`Coram : M.B.Shah & K.R.Vyas, JJ.

In this petition in paragraph 11 of the petitioners have prayed as under :-

"(A) Your Lordships would be pleased to issue a writ of mandamus or any other appropriate writ order or direction declaring that Sec.3(1) of the Gujarat Public Monies (Recovery of Dues) Act, 1979 is unconstitutional and violative of Art.14 of the Constitution of India and also be declared that Sec.3(1) of the Act is violative of principles of natural justice and fair play and may be struck down from the statute.

(B) Your Lordships would be pleased to issue a writ of mandamus or any other appropriate writ order or direction declaring that Sec.3 of the Gujarat Public Monies (Recovery of Dues) Act, 1979 is beyond the legislative competence of the State Legislature.

(C) Your Lordships will be pleased to issue a writ of mandamus or any other appropriate writ order or direction quashing and setting aside notices and Certificate at Annexure "C" (Collvly.), D and "E".

(D) Your Lordships will be pleased to issue a writ of mandamus or any other appropriate writ order or direction declaring that Sec.29 of the State Finance Corporation Act, 1951 is violative of Arts. 14 and

19 of the Constitution of India and may be struck down from the statute."

Prayer (E) & (EE) are for interim relief pending hearing and final disposal of the petition.

With regard to prayers (A) & (B), the Division Bench of this Court in the case of Alka Ceramics v. G.S.F.C., 26(1) G.L.R. 57, has upheld the validity of the Gujarat Public Moneys (Recovery of Dues) Act, 1979.

Further, by the judgment rendered by the Division Bench of this Court in the case of Alka Ceramics v. G.S.F.C. 31(1) G.L.R. 628, it has upheld the validity of sections 29 and 31 of the State Financial Corporations Act, 1951. It should be noted that as the validity of Sections 29 and 31 of the State Financial Corporations Act was challenged, this Court at the time of admission had ordered that this matter shall be heard along with Special Civil Application No.6630/85. The Special Civil Application No.6630/85 is decided alongwith other matters in the decision rendered in Alka Ceramics v. G.S.F.C. 31(1) G.L.R. 628.

In this view of the matter, there is no substance in the aforesaid two contentions raised by the learned advocate for the petitioners. Prayers (A), (B), (C) & (D) of paragraph 11 cannot be granted. Hence the interim relief granted by the Court requires to be vacated and it is hereby vacated.

However, at the request of the learned advocate for the petitioners who is appearing for Mr.S.I.Nanavati the matter is adjourned to 21st February, 1991.

Sd/=
(M.B. Shah, J.)

Sd/=
(K.R. Vyas, J.)'

In view of the above, this petition is disposed of in terms of the interim order dated 19.2.1991 passed

by the Division Bench of this court. Rule is discharged.
No order as to costs.

(B.J.Shethna, J.)

(Sharad D. Dave, J.)
*Pvv